STATE OF MICHIGAN

COURT OF APPEALS

CASA BALCONA TERRACE COOPERATIVE, INC.,	UNPUBLISHED May 5, 2009
Plaintiff-Appellee,	
v	No. 282119 Wayne Circuit Court
ANITA LYOD,	LC No. 06-616058-CZ
Defendant-Appellant.	

Before: Zahra, P.J., and O'Connell and K. F. Kelly, JJ.

PER CURIAM.

Defendant appeals as of right the trial court's order requiring defendant to sell her membership in the plaintiff organization, awarding additional relief and damages, and closing the case in favor of plaintiff. We affirm.

Defendant was expelled from plaintiff's housing cooperative. However, defendant failed to turn over possession of her unit, as required by the November 28, 2006, order. To enforce the original order, the trial court ordered defendant to turn over control of the unit, and in a subsequent order allowed plaintiff to purchase defendant's membership for $4,474.41, crediting the purchase price against plaintiff's lien on defendant's membership.

On appeal, defendant argues that the trial court erred by entering a new final order to provide additional and different relief for plaintiff after previously entering a final order for summary disposition, and that the trial court erred by, in effect, amending a final order with additional relief and damages when it would not have jurisdiction to hear this request for additional relief as new litigation. We disagree, because the trial court's actions were proper pursuant to MCR 2.605.

The interpretation and application of a court rule involves a question of law that we review de novo. *Associated Builders & Contractors v Dep't of Consumer & Industry Services Director*, 472 Mich 117, 123-124; 693 NW2d 374 (2005). However, we review the factual findings underlying a trial court's application of a court rule for clear error. MCR 2.613(C). A finding is clearly erroneous when we are left with a "definite and firm conviction that a mistake has been made." *Massey v Mandell*, 462 Mich 375, 379; 614 NW2d 70 (2000). The scope of a trial court's power is a question of law that we review de novo. *Traxler v Ford Motor Co*, 227 Mich App 276, 280; 576 NW2d 398 (1998). Additionally, we review a trial court's decision

whether to reinstate an action for an abuse of discretion. *Wickings v Arctic Enterprises, Inc*, 244 Mich App 125, 138; 624 NW2d 197 (2000). An abuse of discretion occurs when a trial court makes a decision outside the range of principled outcomes. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006).

The basis of plaintiff's complaint was a request for declaratory judgment, which, in part, would force the sale of defendant's membership with plaintiff's co-op. The trial court granted plaintiff's motion for summary disposition and entered an order for declaratory relief on November 28, 2006, finding that defendant had been properly expelled from plaintiff's co-op, and ordering that defendant endorse her membership certificate and turn it over to plaintiff. With the endorsed certificate, plaintiff could proceed with its rights under plaintiff's bylaws to either purchase the membership for book value or secure a purchaser and then apply the proceeds to satisfy plaintiff's lien rights on defendant's membership, as contained in the bylaws. The trial court also held that in lieu of such an endorsement, the order would constitute "an endorsement of the membership for purposes of transfer on the books and records of the corporation to enable a sale or acquisition respecting said membership as provided by the By-laws of the Corporation." Plaintiff later alleged that defendant had not complied with the trial court's order because she had not endorsed her certificate or vacated the premises and turned over her keys; consequently, plaintiff moved for additional relief under MCR 2.605(F). The trial court initiated an enforcement action, stating that it was "reinstat[ing] the case on its docket for purposes of . . . enforcement . . . ." Plaintiff then moved to force the sale of defendant's membership. On October 26, 2007, the trial court ordered that plaintiff was the purchaser of defendant's membership by crediting the purchase price of $4,474.41, which was book value as required by plaintiff's bylaws, against plaintiff's lien on defendant's membership.[1] The trial court also ordered the case closed.

Defendant argues that plaintiff was developing a factual record in order to obtain an amendment to the final judgment and obtain new relief against defendant. She asserts that the trial court abused its discretion by using its authority to "reinstate" this case under these circumstances because the court rules do not permit reinstatement and the grant of additional relief. We disagree.

MCR 2.605(A)(1) empowers the circuit court to issue a declaratory judgment when and only if an actual controversy exists.[2] *PT Today, Inc v Comm'r of the Office of Financial & Ins Services*, 270 Mich App 110, 140; 715 NW2d 398 (2006). "[T]he language of MCR 2.605 is permissive rather than mandatory; thus, it rests with the sound discretion of the court whether to grant declaratory relief." *Id*. at 141. "Further necessary or proper relief based on a declaratory judgment may be granted after reasonable notice and hearing, against a party whose rights have been determined by the declaratory judgment." MCR 2.605(F). Although actions for

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[1] This was also permitted by plaintiff's bylaws.

[2] MCR 2.605(A)(1) states, "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted."

declaratory relief are intended to minimize avoidable losses and the unnecessary accrual of damages, "declaratory judgment actions can result in monetary relief." *Durant v Michigan*, 456 Mich 175, 208-209; 566 NW2d 272 (1997). Pursuant to MCR 2.605(F), "a court is empowered to grant money damages as are necessary and proper in a declaratory judgment action." *Hofmann v Auto Club Ins Ass'n*, 211 Mich App 55, 90; 535 NW2d 529 (1995).

Defendant does not challenge the remedy issued by the trial court or its interpretation of the bylaws; rather, she challenges whether the trial court had the authority to force the transfer of the membership by "reinstating" the case, and, in her view, amend a final order by providing additional and alternative relief. Defendant's characterization of the trial court's actions is incorrect. The trial court did not technically reinstate the case as that term is used under the court rules. See MCR 2.502(C). Rather, it appears to us from the course of the proceedings that the trial court inadvertently used an incorrect legal term of art to describe what it was doing—revisiting the matter in order to enforce its initial order for declaratory judgment, as well as provide additional relief. As such, defendant's related argument that the trial court erred by not abiding by the procedural requirements of MCR 2.502(C) is unavailing because that provision simply does not apply.

In any event, the trial court's actions were entirely within its authority. The initial November 2006 order stated that the trial court was retaining jurisdiction for the purpose of its enforcement. "A court possesses inherent authority to enforce its own directives." *Walworth v Wimmer*, 200 Mich App 562, 564; 504 NW2d 708 (1993); see also *Maldonado, supra* at 376 (emphasizing a court's authority to enforce its own orders). A trial court also has the express authority to direct and control the proceedings before it; MCL 600.611 provides that "[c]ircuit courts have jurisdiction and power to make any order proper to fully effectuate the circuit courts' jurisdiction and judgments."

Further, the trial court used its inherent authority to enforce its initial declaratory judgment that provided a framework for the sale of defendant's membership pursuant to plaintiff's bylaws. This was permissible under MCR 2.605(F), which gives a trial court authority to provide further relief based on its declaratory judgment. The trial court retained jurisdiction to enforce its order. The trial court's decision was merely an exercise of its inherent authority to enforce its November 28, 2006, judgment. When the parties were unable to effectuate the sale of defendant's membership as outlined in the trial court's November 28, 2006, order, the trial court chose to order the sale of defendant's membership to plaintiff as a credit against plaintiff's lien on defendant's membership. This lien was permitted under the bylaws as a result of the attorney fees sustained by plaintiff arising from defendant's expulsion and the need to sell or purchase defendant's membership. This was a proper enforcement of the initial order because the initial order stated that any sale or purchase of the membership would have to involve the satisfaction of plaintiff's lien under its bylaws.

Defendant also argues that plaintiff's motion to force the sale of defendant's membership was actually an attempt to amend the final judgment in order to make it appear that a timely motion for attorney fees was being filed. She contends that reopening the case for this purpose was improper because plaintiff's motion was a new claim for damages below the circuit court's jurisdictional minimum of $25,000. She argues that a new lawsuit should have been filed in a court of appropriate jurisdiction. We disagree.

Defendant's argument is built on the unsupported presumption that the trial court was amending a final order to provide additional and different relief. Defendant cites no legal authority for her claim of error beyond the statutory cite for the jurisdictional requirement that litigation in circuit court must be for claims exceeding $25,000. When "a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned." *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). Additionally, this Court will not search for authority to sustain or reject a party's position; instead, failure to cite authority in support of an issue results in it being deemed abandoned on appeal. *Spires v Bergman*, 276 Mich App 432, 444; 741 NW2d 523 (2007). Therefore, this issue is abandoned.

Affirmed.

/s/ Brian K. Zahra
/s/ Peter D. O'Connell
/s/ Kirsten Frank Kelly